

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 5442 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

NORMAN W. FREEMANTLE
(Claimant)
S.S.A. No.

STANDARD OIL COMPANY
OF CALIFORNIA
(Appellant- Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-274

FORMERLY BENEFIT DECISION No. 5442
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The above-named employer on May 13, 1949 appealed from the decision of a Referee (LA-22023) which held that the claimant was not subject to disqualification under Section 58(a)(1) of the Unemployment Insurance Act /now section 1256 of the Unemployment Insurance Code7.

Based on the record before us, our statement of fact, reason for decision, and decision are as follows:

STATEMENT OF FACT

The claimant was last employed by the employer herein for 3½ years as a lift truck operator and warehouse clerk. He submitted his resignation from this work on October 6, 1948 under circumstances hereinafter set forth.

On October 11, 1948, the claimant registered for work and filed a claim for unemployment insurance benefits in the Inglewood office of the Department of Employment. On October 19, 1948 the Department issued a determination which held the claimant ineligible for

union which called a strike on September 4, 1948. Subsequent to September 4, 1948 and prior to October 17, 1948, the claimant sought other employment which he could safely perform without unduly exposing other persons to the risk of infection.

By letter dated October 6, 1948, the claimant submitted his resignation from employment with the employer herein without advising the employer of the reason therefor. The claimant stated that he resigned his employment because the costs of his medical treatments had depleted his finances and in order to obtain an amount of money due him under the employer's annuity plan it was necessary for him to tender his resignation.

The Referee's decision in this case was predicated in part upon the conclusion that the claimant had left his work due to a disability and not because of the existence of a trade dispute as evidenced by the fact that the claimant left his work several days prior to the inception of the strike. In appealing to this Appeals Board the employer disputes this finding and conclusion because the claimant would have been entitled to accumulated sick leave at full pay had he remained away from work because of illness rather than because of the trade dispute.

REASON FOR DECISION

The issue of whether or not the claimant left his work because of a trade dispute and was properly subjected to disqualification under Section 56(a) of the Unemployment Insurance Act /now section 1262 of the code/ with respect to the claim for benefits filed on October 11, 1948 is not before us in this case. On October 19, 1948 and again on November 29, 1948, the Department issued determinations which held that the claimant had left his work due to a trade dispute and that he was disqualified under Section 56(a) of the Act /now section 1262 of the code/ for the period during which he continued out of work by reason of the fact that the trade dispute was still in active progress. The claimant did not appeal from either of these determinations and they have since become final and conclusive on that issue. Therefore, the only issue before us in this case involves the question of

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 5442 is hereby designated as Precedent Decision No. P-B-274.

Sacramento, California, March 16, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

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